

IN THE SENATE

SENATE BILL NO. 1150

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO ABANDONED MOTOR VEHICLES; AMENDING SECTION 49-1801, IDAHO CODE, TO PROVIDE FOR AN INFRACTION; AMENDING SECTION 49-1802, IDAHO CODE, TO PROVIDE FOR MAILING A CITATION; AMENDING SECTION 49-1803, IDAHO CODE, TO PROVIDE THAT ANY AUTHORIZED OFFICER MAY TAKE CERTAIN VEHICLES INTO CUSTODY WHERE THE DRIVER HAS BEEN ARRESTED, TO PROVIDE FOR NOTICE, TO PROVIDE THAT AN ARRESTING OFFICER SHALL RECORD CERTAIN INFORMATION, TO PROVIDE THAT CERTAIN VEHICLE'S OWNER OR OWNER'S AGENT IS RESPONSIBLE FOR RECLAIMING SUCH VEHICLE, TO REVISE PROVISIONS RELATING TO NOTICE AND TO REVISE PROVISIONS RELATING TO CERTAIN VEHICLE APPRAISAL; AMENDING SECTION 49-1804, IDAHO CODE, TO PROVIDE THAT CERTAIN VEHICLES MAY BE REMOVED TO STORAGE, TO PROVIDE FOR NOTICE AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 49-1805, IDAHO CODE, TO REVISE A CODE REFERENCE, TO PROVIDE A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO NOTICE; AMENDING SECTION 49-1806, IDAHO CODE, TO PROVIDE FOR REMOVAL OF VEHICLES THAT HAVE BEEN ABANDONED ON REAL PROPERTY FOR A CERTAIN PERIOD OF TIME AND TO REVISE PROVISIONS RELATING TO THE REMOVAL OF AN UNAUTHORIZED OR ABANDONED VEHICLE PARKED OR OTHERWISE LEFT ON PRIVATE PROPERTY; AMENDING SECTION 49-1808, IDAHO CODE, TO PROVIDE FOR CERTAIN INVENTORY; AMENDING SECTION 49-1810, IDAHO CODE, TO REVISE PROVISIONS RELATING TO NOTICE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1814, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISPOSITION OF LOW-VALUED VEHICLES, TO PROVIDE THAT CERTAIN AUTOMOBILE PARTS DEALERS ACQUIRING A CERTAIN VEHICLE SHALL BE EXCUSED FROM CERTAIN FEES UNLESS SUCH VEHICLE IS RETITLED AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-1815, IDAHO CODE, TO REVISE PROCEDURE PROVISIONS RELATING TO THE DISPOSITION OF LOW-VALUED VEHICLES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 49-1816, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE DISPOSITION OF LOW-VALUED VEHICLES TO AUTOMOBILE PARTS DEALERS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 49-1801, Idaho Code, be, and the same is hereby amended to read as follows:

1 49-1801. ABANDONMENT PROHIBITED. (1) No person shall abandon a vehicle
2 upon any highway.

3 (2) No person shall abandon a vehicle upon public or private property without the
4 express or implied consent of the owner or person in lawful possession or control of the
5 property.

6 (3) Any violation of the provisions of this section shall be an infraction.

7 SECTION 2. That Section 49-1802, Idaho Code, be, and the same is hereby amended to
8 read as follows:

9 49-1802. PRESUMPTION. (1) The abandonment of any vehicle shall create a prima
10 facie presumption that the last registered owner of record is responsible for the abandonment
11 and is thereby liable for the costs incurred in the removal, storage and disposition of the
12 vehicle, less any amount received from the disposition of the vehicle.

13 (2) The owner of any vehicle removed under extraordinary circumstances is presumed
14 responsible for the vehicle and is thereby liable for the costs incurred in the removal, storage
15 and disposition of the vehicle, less any amounts received from the disposition of the vehicle.

16 (3) If a vehicle is found abandoned or under extraordinary circumstances and is removed
17 at the direction of any authorized officer, and is not redeemed by the owner or lienholder within
18 seven (7) days of the tow, the last registered owner of record is guilty of a traffic infraction,
19 unless the owner has filed a release of liability with the department according to section 49-526,
20 Idaho Code, in which case the transferee shown on the release of liability shall be guilty of a
21 traffic infraction.

22 (4) The law enforcement agency that authorized the vehicle to be removed may mail the
23 defendant's copy of the infraction citation to the last registered owner via certified mail if no
24 release of liability has been filed and to the transferee if the release of liability has been filed.

25 SECTION 3. That Section 49-1803, Idaho Code, be, and the same is hereby amended to
26 read as follows:

27 49-1803. REMOVAL OF STOLEN VEHICLES OR VEHICLES FOUND UNDER
28 ~~EMERGENCY~~ EXTRAORDINARY CIRCUMSTANCES. (1) Any authorized officer, upon
29 discovery of a vehicle reported as stolen and not recovered, ~~or~~ any vehicle involved in any
30 extraordinary circumstances, or any vehicle where the driver has been arrested, may take the
31 vehicle into custody and cause it to be taken to and stored in a suitable place, or may cause the
32 vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage
33 to be those of the vehicle owner or his agent, unless otherwise determined according to the
34 provisions of section 49-1805(5), Idaho Code.

35 (2) Within forty-eight (48) hours, excluding weekends and holidays, of the time that
36 a stolen vehicle has been towed, the law enforcement agency that authorizes the tow shall
37 notify the agency that made the original theft report. The original reporting agency shall within
38 twenty-four (24) hours notify the owner or his agent of the recovered vehicle and how he may
39 reclaim the vehicle. If the owner or his agent cannot be contacted, then within forty-eight (48)
40 hours, notice shall be sent by first class mail.

41 (3) For vehicles where the driver has been arrested, the arresting officer shall ensure that
42 the records relating to such arrest will include the disposition of the vehicle. The owner or his

1 agent is solely responsible for contacting the tow company or place of storage to reclaim the
 2 vehicle.

3 (4) Within forty-eight (48) hours, excluding weekends and holidays, of the time that the
 4 vehicle involved in extraordinary circumstances is taken into custody and is stored pursuant to
 5 this chapter, the agency of which the officer is an agent shall give written notice by ~~certified~~
 6 first class mail to the registered and legal owners of the vehicle, if known. The notice shall
 7 state:

8 (a) That the vehicle has been taken into custody and stored; and

9 (b) The location of storage of the vehicle.

10 (35) The public agency ~~by~~ for which the officer is employed shall appraise the vehicle
 11 as being of high value (greater than seven hundred fifty dollars (\$750)) or of low value (equal
 12 to or less than seven hundred fifty dollars (\$750)) and shall include in the notice, identification
 13 of the officer; location of the vehicle; a description of the vehicle including make, year model,
 14 identification number, license number, state of registration and the statutory authority for
 15 storage.

16 SECTION 4. That Section 49-1804, Idaho Code, be, and the same is hereby amended to
 17 read as follows:

18 49-1804. REMOVAL OF ABANDONED VEHICLES BY AUTHORIZED
 19 OFFICER. (1) Any authorized officer within the jurisdiction in which a vehicle is
 20 located, who has reasonable grounds to believe that the vehicle has been abandoned, may
 21 remove the vehicle from a highway or from public or private property to a garage or nearest
 22 place of safety.

23 Upon discovery of an abandoned vehicle which is not within the class of vehicles
 24 defined under "~~emergency~~ extraordinary circumstances," an authorized officer shall attach on
 25 the vehicle, in plain view, a notice that this vehicle will be towed away at the expiration of
 26 forty-eight (48) hours as an abandoned vehicle. The notice shall contain the name of the
 27 officer who prepared the notice; the name of the agency employing the officer; the time and
 28 date of attaching the notice; the time and date after which the vehicle will be removed; and
 29 the telephone number and address of the agency where further information can be obtained. A
 30 reasonable attempt shall be made to notify by telephone the owner of any vehicle which has
 31 current license plates and registration as shown on the records of the department, prior to the
 32 expiration of the forty-eight (48) hour notice period, of the location of the vehicle and the time
 33 and date of intent to remove the vehicle. The inability of an officer to notify the owner shall
 34 not preclude the removal of the vehicle at the expiration of the forty-eight (48) hour period.

35 Any vehicle on a highway which does not have current or any license plate attached may
 36 be immediately removed to a safe place of storage.

37 (2) The process for notifying the owner of an abandoned vehicle shall be the same as
 38 that provided for in section 49-1803, Idaho Code, concerning a vehicle found in extraordinary
 39 circumstances.

40 SECTION 5. That Section 49-1805, Idaho Code, be, and the same is hereby amended to
 41 read as follows:

42 49-1805. POST-STORAGE HEARING. (1) Whenever an authorized officer directs the
 43 towing or storage of a vehicle, except vehicles impounded for investigation pursuant to section

1 49-1803(2) or 49-1803(3), Idaho Code, the agency directing or authorizing towing or storage
 2 shall provide the vehicle's registered and legal owners of record, or their agents, with the
 3 opportunity for a post-storage hearing to determine the validity of the storage.

4 (2) A notice of the storage shall be sent by ~~certified~~ first class mail to the registered
 5 and legal owners within forty-eight (48) hours, excluding the weekends and holidays, and shall
 6 include the following information:

7 (a) The name, address, and telephone number of the agency providing the notice;

8 (b) The location of the place of storage and description of the vehicle which shall
 9 include, if available, the name or make, identification number, the license plate number,
 10 and the mileage;

11 (c) The statutory authority and purpose for the removal of the vehicle; and

12 (d) In order to receive a post-storage hearing, the owners, or their agents, must request
 13 the hearing in writing within ten (10) days of the date of the notice. Any such hearing
 14 shall be conducted within forty-eight (48) hours of the request, excluding weekends and
 15 holidays. The public agency may authorize its own officer or employee to conduct the
 16 hearing, so long as the hearing officer is not the same person who directed the storage of
 17 the vehicle.

18 (3) Failure of either the registered or legal owner, or his agent, to request or to attend a
 19 scheduled hearing shall satisfy the post-storage hearing requirement as to that person.

20 (4) The provisions of this section shall not apply to vehicles removed from private
 21 property pursuant to section 49-1806(1), Idaho Code.

22 (5) The agency employing the person who directed the storage shall be responsible for
 23 the costs incurred for towing and storage if it is determined in the hearing that probable cause
 24 for the storage cannot be established.

25 SECTION 6. That Section 49-1806, Idaho Code, be, and the same is hereby amended to
 26 read as follows:

27 49-1806. REMOVAL OF UNAUTHORIZED AND ABANDONED VEHICLE FROM
 28 REAL PROPERTY. (1) Any person having possession or control of real property who finds an
 29 unauthorized vehicle standing upon his property is permitted to have the vehicle removed if
 30 there is posted on or near the property in a clearly conspicuous location, in large print, a sign
 31 or notice that unauthorized vehicles will be removed at the owner's expense and designating
 32 the name of the towing firm. Unauthorized vehicles need not meet the provision of section
 33 49-102(2), Idaho Code, in this instance.

34 (2) Any person having possession or control of real property who finds an abandoned
 35 vehicle standing on his property, where the property is not posted as set out in subsection (1)
 36 of this section, may contact an authorized officer, who must in turn comply with the provisions
 37 of section 49-1804, Idaho Code, in accomplishing the removal of the vehicle except under
 38 those circumstances set out in subsection (3) of this section. Provided however, for vehicles
 39 that have been abandoned on real property for a period of time equal to or greater than thirty
 40 (30) days, the property owner or his agent may have the vehicle removed to a towing or scrap
 41 yard. The towing company or scrap company shall be responsible for all notifications and
 42 dispositions pursuant to this chapter.

43 (3) Where access into or out of private property or substantial interference with the use
 44 and enjoyment of private property is created by an unauthorized or abandoned vehicle being
 45 parked or otherwise left on private property, the person owning or controlling the property may

1 contact an authorized officer who may, ~~without regard for the provisions of section 49-1804,~~
 2 ~~Idaho Code, immediately proceed to have the vehicle removed to a garage or nearest place of~~
 3 ~~safety. All other provisions of this chapter shall be complied with~~ have the vehicle removed as
 4 a vehicle involved in extraordinary circumstances.

5 SECTION 7. That Section 49-1808, Idaho Code, be, and the same is hereby amended to
 6 read as follows:

7 49-1808. STORAGE OF VEHICLE. Whenever an authorized officer removes a vehicle
 8 from a highway, or from public or private property, he shall take, or cause to be taken, the
 9 vehicle to the nearest garage or other place of safety. At the time of removal, the authorized
 10 officer or employee shall ~~record the mileage of the vehicle~~ inventory the contents and condition
 11 of the vehicle.

12 SECTION 8. That Section 49-1810, Idaho Code, be, and the same is hereby amended to
 13 read as follows:

14 49-1810. NOTIFICATION TO OWNER OF SALE. (1) If the owner or a ~~lien holder~~
 15 lienholder of record is known and can be located, a copy of the notice of sale shall be served
 16 on the owner and ~~lien holder~~ lienholder at least fifteen (15) days before the date of the sale.
 17 Service of the notice may be made by ~~certified~~ first class mail. Notice of the sale, in addition,
 18 shall be given by advertising the abandoned vehicle for sale at least twice in a daily newspaper
 19 of general circulation where the abandoned vehicle was found and is being held. The notice of
 20 sale shall:

21 (a) Describe the abandoned vehicle by giving a description of the vehicle, name or make,
 22 model, year, manufacturer, license plate number (if available), mileage, serial number and
 23 any other distinguishing characteristics;

24 (b) Describe when and where the abandoned vehicle will be sold;

25 (c) State the names and addresses of the registered and legal owners (if known);

26 (d) State the amount of the lien and the facts concerning the claim which gave rise to the
 27 lien.

28 (2) Where the owner or ~~lien holder~~ lienholder is not known or cannot be located, notice
 29 of sale shall be given by advertising the abandoned vehicle for sale at least twice in a daily
 30 newspaper of general circulation where the abandoned vehicle was found and is being held, or
 31 such notice shall be posted in three (3) public places. The notice shall contain the information
 32 required in subsection (1) of this section. If the owner is known but has not been located a
 33 notice of sale shall, in addition, be sent to him by ~~registered or certified~~ first class mail to the
 34 last known mailing address.

35 SECTION 9. That Section 49-1814, Idaho Code, be, and the same is hereby amended to
 36 read as follows:

37 49-1814. DISPOSITION OF LOW-VALUED VEHICLES. (1) If the vehicle is
 38 appraised at a value not exceeding ~~two~~ seven hundred fifty dollars (~~\$200~~750), it shall be
 39 considered of "low value." ~~The provisions of sections 49-1809 through 49-1811, Idaho Code,~~
 40 ~~shall not apply, and the person or public agency which removed the vehicle shall:~~

(a) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one (1) of the following:

~~1.~~(i) The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.

~~2.~~(ii) The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

~~3.~~(iii) The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department unless the vehicle is retitled.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

(a) Any member of the Idaho state police;

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;

(c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;

(d) Any officer or employee of the division of motor vehicles designated by the director;

(e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or

(f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based.

SECTION 10. That Section 49-1815, Idaho Code, be, and the same is hereby amended to read as follows:

49-1815. DISPOSITION OF LOW-VALUED VEHICLES – PROCEDURE. The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the lienholder has made a request to the department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by ~~certified~~ first class mail ~~with return receipt requested~~, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle:

- 1 (a) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at
2 ~~\$200~~750 or Less";
- 3 (b) A blank form entitled "Declaration of Opposition.";
- 4 (3) All notices to persons having an interest in the vehicle shall be signed under penalty
5 of perjury and shall include all of the following:
- 6 (a) A description of the vehicle, including make, year model, identification number,
7 license number, and state of registration;
- 8 (b) The names and addresses of the registered and legal owners of the vehicle and any
9 other person known to have an interest in the vehicle;
- 10 (c) The following statements and information:
- 11 ~~1.~~(i) The amount of the lien;
- 12 ~~2.~~(ii) The facts concerning the claim which give rise to the lien;
- 13 ~~3.~~(iii) The person has a right to a hearing in court;
- 14 ~~4.~~(iv) If a hearing in court is desired, a declaration of opposition form shall be
15 signed under penalty of perjury and returned to the agency which requested the
16 tow within ten (10) days of the date the notice of intent to dispose of a vehicle
17 valued at seven hundred fifty dollars (\$200750) or less form was mailed; and
- 18 ~~5.~~(v) The declarant may be liable for court costs if a judgment is entered in favor
19 of the possessory lienholder.
- 20 (d) A statement that the possessory lienholder may dispose of the vehicle to a certified
21 automobile parts dealer if it is not redeemed or if a declaration of opposition form is
22 not signed and mailed to the agency which requested the tow within ten (10) days of
23 the date the notice of intent to dispose of a vehicle valued at seven hundred fifty dollars
24 (~~\$200~~750) or less form was mailed.
- 25 (4) If the agency which requested the tow receives a completed declaration of opposition
26 form within the time prescribed, the vehicle shall not be disposed of for an additional fifteen
27 (15) day period during which time the individual filing the declaration of opposition must file
28 an action with the appropriate court and cause the possessory lienholder to be served with the
29 summons and complaint. The filing and service of the action will stay disposal of the vehicle
30 pending decision by the court unless the declarant subsequently releases his interest in the
31 vehicle.

32 SECTION 11. That Section 49-1816, Idaho Code, be, and the same is hereby amended to
33 read as follows:

34 49-1816. DISPOSITION OF LOW-VALUED VEHICLE – AUTOMOBILE PARTS
35 DEALER. (1) Any vehicle determined to have a value not exceeding ~~two~~ seven hundred fifty
36 dollars (~~\$200~~750) which was stored pursuant to this chapter, and which remains unclaimed, or
37 for which reasonable towing and storage charges remain unpaid, shall be disposed of only to
38 an automobile parts dealer not earlier than fifteen (15) days after the date the notice of intent
39 to dispose of a vehicle valued at ~~two~~ seven hundred fifty dollars (~~\$200~~750) or less form was
40 mailed, unless a declaration of opposition form has been signed and returned to the possessory
41 ~~lien holder~~ lienholder.

42 (2) If the vehicle has been disposed of to an automobile parts dealer, the person
43 or agency removing the vehicle shall forward the following forms and information to the
44 department within five (5) days:

- 1 (a) A statement, signed under penalty of perjury, that a properly executed declaration of
- 2 opposition form was not received;
- 3 (b) A copy of the notice sent to all interested parties;
- 4 (c) A certification from the public agency which made the determination of value
- 5 pursuant to section 49-1814, Idaho Code;
- 6 (d) The proof of service or a copy of the court judgment;
- 7 (e) The name, address, and telephone number of the certified automobile parts dealer
- 8 who received the vehicle; and
- 9 (f) The amount the person or agency removing the vehicle received for the vehicle.